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ELECTRONICALLY FILED
DOC#
DATE FILED: 2/9/2017

GABRIEL P. HARVIS
BAREE N. FETT

February 8, 2017

BY ECF

Honorable Edgardo Ramos
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

MEMO ENDORSED

Re: *Vasquez v. City of New York, et al.*, 15 CV 8270 (ER)

Your Honor:

I represent plaintiff in the above-referenced civil rights action. I write to respectfully request, with defendants' consent: 1) an extension of the discovery deadline from February 9, 2017 until March 9, 2017; and 2) leave to file plaintiff's proposed Third Amended Complaint.

As the Court may recall, plaintiff Luis Vasquez claims that corrections staff witnessed his assault by another inmate in February 2015, but culpably miscategorized it as a slip-and-fall and failed to enter a separation order. As a result, Mr. Vasquez was grievously injured when he was later housed with the same assailant.

Considerable discovery has been conducted to this point. Plaintiff has inspected the jail facility, deposed several defendants and a municipal 30(b)(6) witness, produced the report of a medical expert and obtained most of the relevant documents. If it should please the Court, the proposed extension will allow plaintiff to depose four additional party defendants, including two defendants named in the proposed Third Amended Complaint, and to locate and potentially depose inmate witnesses.

Through the above-described discovery, plaintiff is now able to eliminate certain defendants included in the initial pleadings and to add as defendants two officers personally involved in the disputed events. The proposed amendment,

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annexed hereto as Exhibit 1, was provided to the defense for review, and defendants have consented in writing to the amendment. *See AEP Energy Services Gas Holding Co. v. Bank of America*, N.A., 626 F.3d 699, 726 (2d Cir. 2010) (“The rule in this Circuit has been to allow a party to amend its pleadings in the absence of a showing by the nonmovant of prejudice or bad faith.”) (quoting *Block v. First Blood Assocs.*, 988 F.2d 344, 350 (2d Cir. 1993) (internal quotation marks omitted)); *accord, e.g., Johnson v. Bryco Arms*, 304 F. Supp. 2d 383, 398 (E.D.N.Y. 2004) (Weinstein, J.) (“In exercising discretion to grant leave to amend, courts should be guided by the underlying purpose of allowing amendment to facilitate a decision on the merits.”) (quotation and citations omitted).

The parties previously requested extensions of discovery on August 8, 2016 and October 6, 2016 – both requests were granted by the Court. At a conference on October 21, 2016, the Court set the current February 9th discovery deadline. Plaintiff’s two previous requests for leave to amend the pleadings were each granted.

In light of the foregoing, plaintiff respectfully requests: 1) an extension of the discovery deadline from February 9, 2017 until March 9, 2017; and 2) leave to file plaintiff’s proposed Third Amended Complaint.

Thank you for your consideration of this request.

Respectfully submitted,


Gabriel P. Harvis

Encl.

cc: Ariel Lichterman, Esq.

The application is ☒ granted
_____ denied



Edgardo Ramos, U.S.D.J

Dated: 2/9/2017

New York, New York

The discovery deadline shall be extended until March 9, 2017. Based on agreement of the parties, Plaintiff is granted leave to file a Third Amended Complaint.